

MEMORIAL

OF

A NUMBER OF MERCHANTS OF BOSTON,

PRAYING

An alteration of the laws regulating the admiralty courts of the United States in relation to salvages on wrecked property.

MAY 10, 1838.

Referred to the Committee on Commerce, and ordered to be printed.

To the Senate and House of Representatives of the United States in Congress assembled :

The undersigned, merchants and underwriters, residents of Boston, in consequence of the course heretofore pursued by the United States admiralty court established at Key West, have suffered much loss in consequence of premature sales of wrecked property carried into that place, which have been ordered by the court, and thus have been deprived of all chance of saving the sacrifice that in most cases would be saved, if we had time sufficient allowed to send an agent out with funds to pay the salvage awarded by the court, in cases where a specific sum might be given, and to purchase the property in competition with the residents there, where it was of such a mixed character as would make it necessary to sell the same.

If the court had established what we deem the equitable rule in all cases of awarding salvage in kind where the articles were susceptible of a just distribution among the claimants, your memorialists would have less reason to complain ; but the course usually pursued is not only to order a large salvage to be paid, but to direct that the property shall be speedily sold to pay such salvage, so that by the time we hear of the disaster the whole mischief is done, and not unfrequently the loss arising from the sacrifice of the property amounts to more than the loss by the shipwreck, provided the salvage was paid in kind. Therefore your memorialists pray that your honorable bodies would pass such laws as will make it imperative on all the courts of the United States to award salvages in kind on all wrecked property which may be libelled for salvage.

Also that the law may be so altered as to prevent the sale of wrecked property at Key West, or at any place within that district, whether libelled or not, for the space of sixty days from the time the same may be landed at

Key West, unless the same is in a perishable condition, or unless the owner, or agent, or attorney, of the owner, other than the master of the vessel, shall be present and request or assent to such sale.

Boston, April 4, 1838.

C. W. CARTWRIGHT,

President of the Marine Insurance Company.

JOSEPH BALCH,

President of the Merchants' Insurance Company.

C. BRADBURY,

President of the Columbia Insurance Company.

SAMUEL W. SWETT,

President of the National Insurance Company.

C. CURTIS,

President of the Neptune Insurance Company.

NATHANIEL MERIAM,

President of the Mercantile Marine Insurance Company.

LEMUEL POPE,

President of the Boston Insurance Company.

J. INGERSOLL BOWDITCH,

President of the American Insurance Company.

DANIEL SARGENT,

President of the Boston Marine Insurance Company.

JAMES HALL,

President of the New England Marine Insurance Company.

S. A. WELLS,

President of the Atlas Insurance Company.

JOHN CLARK,

President of the Protection Insurance Company.

F. WATTS,

President of the Atlantic Insurance Company.

A. BALDWIN,

President of the Boylston Insurance Company.

J. W. H. ADAMS,

President of the Ocean Insurance Company.

WILLIAM W. PARROTT,

President of the Pacific Insurance Company.

N. PARSONS,

President of the Hope Insurance Company.

N. G. SNELLING,

President of the Massachusetts Fire and Marine Insurance Company.

FRANCIS WELCH,

President of the Franklin Insurance Company.

SAMUEL G. PERKINS,

President of the Suffolk Insurance Company.

ROBERT B. WILLIAMS,

President of the United States Insurance Company.

JOHN L. DIMMOCK,

President of the Warren Insurance Company.

THEODORE CHASE,

JOHN HOOPER,

S. C. GRAY,

WILLIAM HALES,

ROBERT FARLEY,
ELIJAH LORING,
BENJAMIN RICH,
THOMAS LAMB,

President of the Washington Insurance Company.

ATKINSON & ROLLINS,
W. H. BORDMAM,
PASCHAL P. POPE,
EDWARD MOTLEY,
CALEB LORING,
S. DEVENS,
CHARLES DEVENS,
R. B. FORBES,
SAMUEL A. DORR,
STEPHEN GROVER,
B. A. GOULD,
PHINEHAS UPHAM,
T. B. WALES,
EBEN CHADWICK,
T. H. SWETT,
J. A. LOWELL,
SAMUEL MAY,
JOHN BROWN & CO.
H. WAINWRIGHT,
A. C. LOMBARD & CO.
HENRY OXNARD,
W. J. LORING,
SAMUEL FALES,
GILES LODGE,
WILLIAM TUCKER & SONS,
DANIEL P. PARKER,
ROBERT HOOPER, JR.
W. B. REYNOLDS,
N. & G. KNIGHT.

Boston, April 25, 1838.

SIR: I take the liberty to enclose a petition from the merchants and underwriters of this city for a law to restrain the sale of wrecked property, for a limited time, that the gross frauds that in many cases heretofore have been practised upon us may in future be avoided.

A case has recently occurred near Key West to which I beg to call your attention. The ship *Bombay*, insured for \$34,000, with a cargo worth nearly \$60,000, mostly insured in Boston, run on to a reef near Tortugas; the wreckers took out part of the cargo, floated her off, and took her into the harbor of Tortugas, which is a fine basin, and where a vessel may lie free from all danger. The ship was very slightly damaged. The wreckers took out the balance of the cargo free from damage, stripped the ship of her rigging, sails, spars, cables, and anchors, and carried the whole to Key West; had the same libelled, got salvage awarded, and proceeded in selling the ship and part of the cargo to raise money to pay the salvage; and the whole mischief was done before we got the account of the disaster. The

wreckers bought the hull as she lay in Tortugas harbor for about \$1,400, and her materials at Key West for about \$3,000; and in a few days after they resold the whole for \$12,000, to a house in New Orleans, who, we learn, has made a temporary repair of the ship, and intended to take her to New Orleans. We have not yet learned the amount of sacrifice on the cargo. We heard of the disaster about twenty days after it occurred, and the next day despatched an agent with funds to prevent sacrifices and to pay salvage. We have not yet heard from him, but the whole business was settled by the time we heard of the loss; the policy of the wreckers being, in all cases, either by persuasion or some worse means, to induce the masters to favor summary proceeding, lest the owners or underwriters should have time to thwart their views. This is a history of one only of hundreds of cases that have occurred of a similar character, and the recurrence of which we wish to prevent, and have no doubt of receiving the aid of Congress in furthering a cause so just in itself.

Very respectfully,

I am your obedient servant,

C. W. CARTWRIGHT.

Hon. JOHN DAVIS,

United States Senate.

KEY WEST, *April 9, 1838.*

GENTLEMEN: There is but little doubt in my mind that the sale of the ship Bombay was illegal in more than one point, and not one of those extreme cases warranted by law, that would justify the master in selling. And I have not been able to satisfy myself that at the time of the sale there existed any pressing necessity for such a proceeding on the part of the master; the ship, at the time of the sale, being in a harbor, perfectly safe, and sheltered from all winds, where she could have remained for months without danger or injury, (except as the sun or wind would affect her.)

It was not necessary to sell on account of the salvors. The court refused to give an order for the sale, and expressed much disapprobation that no attempt had been made, either on the part of the master or the salvors, to bring the ship to this place, and very properly, as I think, refused them any salvage on the ship. But the conduct of the master, as the judge remarked to me, was strange. That the ship could have been brought here, is admitted by all. Any reasonable time would have been granted the master by the court, had it been asked. However, so far as the ship was concerned, it was not necessary. The sale was made in the master's own time and place, the court taking no cognizance of the transaction.

It is not my purpose at this time to go into any detail as to the injury the ship sustained. I am told, however, that one pump, well worked, would keep the ship free. This the master admits. Suffice, that in a few days from the time that operations commenced on the ship, she was made tight, pumped out, and in a condition to proceed to New Orleans; and this done in a place where there are neither workmen or materials. There are some strong intimations of some connivance, or bargain, between some of the most prominent actors in this transaction, during the time that the ship was on the reef. This I learn from the district attorney and others. The judge, I am inclined to think, from the manner that he expressed himself to me, has

some suspicions of there being wrong. The ship was first purchased at this place, and repurchased by a Mr. Whitney, from New Orleans, where, if she has not already gone, she is destined.

As soon as the requisite paper can be made out I shall, with the United States marshal, proceed to the Tortugas, for the purpose of seizing the ship if there, bring her to this place, give the requisite bonds, and send her to Boston. If the ship should have left the Tortugas, you can take the necessary steps to claim her at New Orleans. The attorney with whom I have advised in this business, expressed some doubts as to my present powers being adequate to sustain me in a court of law.

Your obedient servant,

ALDEN GIFFORD.

CHARLES BRADBURY, Esq., and others.

KEY WEST, *April 9, 1838.*

GENTLEMEN: Since writing you this morning, preparatory to my leaving for the Tortugas, I have decided on following the ship to New Orleans, to which place you will not only forward me your further instructions, but full powers, properly authenticated, under the seal of your respective corporations. No time must be lost in doing so. I will, at another time, explain to you the why and the wherefore I have taken this step.

Your obedient servant,

ALDEN GIFFORD.

C. BRADBURY, Esq., and others.

